



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -730
Regulation title	Investigation Of Child Abuse And Neglect In Out Of Family Complaints
Document preparation date	October 18, 2006

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 21 (2002) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 63.2-217 of the *Code of Virginia* gives the State Board of Social Services the responsibility to make rules and regulations to carry out the purposes of social services. Sections 63.2-1506 (C), 63.2-1511 and 63.2-1516.1 of the *Code of Virginia* provide additional legal mandates to conduct Child Protective Services (CPS) investigations in out of family settings.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No alternatives to the existing regulation were considered because the *Code of Virginia* requires local departments of social services to conduct investigations of suspected child abuse or neglect in out of family settings.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Irv Beard, Elementary School Principal and member of the Out of Family Advisory Committee	The guidelines seem to be appropriate as to current procedures and seem to be written in a manner to be understood.	Acknowledgement of the comment
Robyn Dillon	I have no suggested amendments, and think they should be retained in their current forms.	Acknowledgement of the comment
Christine Marra, Virginia Poverty Law Center	Suggests listing the elements of a valid report or complaint in the definition of valid report. Suggests that unregulated day care homes are not subject to CPS investigations because they are not addressed in the existing regulation.	The specific elements of a valid report are noted in the <i>Code of Virginia</i> and in CPS Policy and are unnecessary in the definition section of the regulation. Unregulated daycare providers are caretakers and thus subject to CPS investigations but do not need to be included in this regulation.

The agency received two comments in support of the existing regulation. One comment suggested expanding the definition of valid report in the existing regulation and suggested unregulated daycare providers are not subject to CPS investigations. The agency believes the current regulation provides sufficient definition of a valid CPS report. The existing regulation is not intended to address all types of out of family settings.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The existing regulation meets the criteria set out in Executive Order 21 and is necessary for the protection of public health, safety and welfare. The regulation is as clear and concise as possible. The agency received one comment indicating the regulations are written in a manner to be understood.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The State Board of Social Services recommends that the regulation stay in effect without change.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

Parents place their children in out of family settings in expectation that the caretakers will provide a nurturing and safe environment for their child. By including out of family settings in the scope of CPS services, the regulation is providing a positive impact on child safety which in turn can increase family stability. The *Code of Virginia* specifically requires local departments of social services to respond to reports of suspected child abuse or neglect when the caretaker is not a parent or guardian but is in a caretaking role. Although many out of family settings are subject to licensure by other state entities, the CPS Program provides an administrative response to allegations of suspected child abuse and neglect requiring an investigation and finding if abuse or neglect occurred, a safety plan for the victim child if needed and services for the victim and the family if necessary.